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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,366	04/15/2004	Chang Lim Lee .	0465-1167PUS1	6617

2292 7590 11/16/2006

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EXAMINER

MCCRAW, BARRY CLAYTON

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,366

Applicant(s)

LEE, CHANG LIM

Examiner

B. Clayton McCraw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/4/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12 and 14-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8,11,12,14,17,18,23-26 and 29 is/are rejected.
- 7) ☒ Claim(s) 5,6,9,10,15,16,19,20,27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/15/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/4/2006 have been fully considered but they are not persuasive. On page 8 of Remarks, the applicant states that the Carmer Jr. et al. (US 2,530,812) reference does not disclose "an opening on a side of the holding member for inserting a water supply pipe therethrough." The examiner respectfully disagrees, and notes that the Carmer Jr. et al. reference does in fact teach "an opening on a side of the holding member" which is most visible in Figure 6. Regarding the phrase "for inserting a water supply pipe therethrough," it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. The prior art must simply be capable of performing the claimed recitation, as it is in this case.

The applicant also states that the Carmer Jr. et al. reference does not disclose a holding member with an opening along the side of the curved portion, which would provide an area that can be deformed. The examiner respectfully disagrees. The fact that the Carmer Jr. et al. reference does not disclose a holding member with an opening along the side of the curved portion does not increase a propensity for deformation. A firm, curved member with a gradual slope, such as the Carmer Jr. et al. invention, maintains piping over a gradual angle, eliminating any sharp angles that would cause deformation, and thus does not undermine the advantage of the Applicant's invention.

Additionally, the applicant states that the Carmer Jr. et al. reference is not analogous prior art. The examiner respectfully disagrees, as it has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. In this case, the latter criterion is clearly met.

The examiner has made changes to the previous rejection only in order to respond to the applicant's amendments to the claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. Claims 1, 2, 7, 8, 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Carmer, Jr. et al. (US 2,530,812). The applicant admits prior art to comprise at least a refrigerator or dispenser assembly in a refrigerator having a body, door, water supplying means, a hinge coupled between the door and body, water supply pipe passing through the insides of the hinge and door and connected to the dispenser (Figure 1). The applicant's prior art fails to teach a curved holding member having a semi-cylindrical form holding the water supply pipe with an inside diameter smaller than the outside diameter of the supply pipe, wherein the holding member has an opening for inserting the water supply pipe through, an opening on a side of the holding member for inserting a water supply pipe therethrough, and the opening extending along a length of the curved holding member and lying within a substantially flat plane. Carmer, Jr. et al. explicitly teach a curved holding member having a semi-cylindrical form (Figures 2, 3 and 6) holding a supply pipe (Figures 1-6) with an inside diameter smaller than the outside diameter of the supply pipe (col. 2, lines 8-12 and lines 21-25) wherein the holding member has an opening on a side for inserting the water supply pipe through (Figures 2-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the refrigerator as taught by admitted prior art with the flexible support as taught by Carmer, Jr. et al. because the holding member is clearly designed to eliminate abrupt bending in tubing applications (col. 1, lines 14-16).

It should be noted that the phrase "lying within a substantially flat plane" is given limited patentable weight because both the applicant's invention and the Carmer, Jr. et

al. reference can be considered to have holding members lying in a substantially flat plane or a substantially angled plane, depending upon the plane of reference.

5. Claim 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Carmer, Jr. et al. (US 2,530,812) and in further view of Koteskey (US 6,167,914). The applicant's admitted prior art and Carmer, Jr. et al. explicitly teach the elements of the present invention as described above, but fail to teach holes in one side of the holding member. Koteskey explicitly teaches holes in one side of a holding member (28 and 29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the refrigerator and holding tube as taught by applicant's admitted prior art and Carmer, Jr. et al. with the holding member holes as taught by Koteskey because it is clearly advantageous to provide extra holes to ease the uncoupling of two items.

6. Claims 23-26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmer, Jr. et al. (US 2,530,812). Carmer Jr. et al. explicitly teach a holding member (Figure 1) having a first end portion (13) and second end portion (14), a curved innermost wall extending between first end portion and second end portion (Figure 6), and a tube receiving opening (12), but fails to teach a first holding portion proximate the first end portion partially surrounding the flexible tube received therein, and a second holding portion proximate the second end portion partially surrounding the flexible tube received therein, wherein the first and second openings are lying within a substantially flat plane. Buckshaw explicitly teaches a first holding portion (22) proximate the first end portion (Figure 3) partially surrounding the flexible tube received therein (Figure 4),

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and a second holding portion (22) proximate the second end portion (Figure 3) partially surrounding the flexible tube received therein (Figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the tube guard of Carmer Jr. et al. with the tube shield of Buckshaw because providing holding portions advantageously allows for the curved member to stay in place (col. 1, lines

It should be noted that the phrase "lying within a substantially flat plane" is given limited patentable weight because both the applicant's invention and the Carmer, Jr. et al. reference can be considered to have holding members lying in a substantially flat plane or a substantially angled plane depending upon the plane of reference.

Allowable Subject Matter

7. Claims 5, 6, 9, 10, 15, 16, 19, 20, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 21 and 22 are allowable over the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Clayton McCraw whose telephone number is (571) 272-3665. The examiner can normally be reached on M-F 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BCM
11/10/2006



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